

Preparing for November 2024 reforms to sponsored workers - a webinar for employers

24 October 2024

This webinar will start at 11am AEDT

AJURIA
LAWYERS

The information contained in this webinar & document is of a general nature and not intended as legal advice for any specific situation

Welcome to Country

Ajuria Lawyers acknowledges the Traditional Custodians of the land on which we meet today and their ongoing connections to land, sea and community

We pay our respect to their Elders past and present, and extend that respect to all Aboriginal and Torres Strait Islander peoples here today.

Our Team



Lillian Ajuria
Partner



Ron Kessels
Partner



Karen Lo
Partner

What is government trying to achieve

- Lower Net Overseas Migration number by the time of the election - the political outcome (171,000 in 2021 now 509,000 in 2024)
- Balancing the demands of unions with those of business and economists - the political pressure
- Honour Australia's international trade agreements - the global citizen
- Reduce the reliance of employees on their employers to remain in Australia - worker mobility
- Attempt to better align the occupations lists to labour shortages - the impossible dream
- Acknowledge the shortcomings of Labour Market Testing - stating the obvious
- Enhance worker protections for those workers on visas - needed in some sectors
- Recalibrate the Global Talent and Investment streams - re-arranging the furniture
- Use more acronyms to create as much further confusion as possible 😊

What is changing

- The Temporary Skill Shortage (TSS) visa will be replaced by the new Skills in Demand visa.
 - Up to 4 year visa
 - Still requires nomination
 - Only 1 year of work experience needed
 - LMT valid for 6 months
 - Three streams available
 - **Specialist Skills Pathway:** For high-income earners earning above \$135,000, with applications processed within 7 days. No occupation list (TBC). Excludes trades workers, machinery operators, drivers, and laborers.
 - **Core Skills Pathway:** For workers earning above \$73,150 in eligible occupations. New occupation list (CSOL) using new Occupation Standard Classification for Australia (OSCA) replaces ANZSCO. May also include occupations covered by international obligations
 - **Essential Skills Pathway:** A regulated pathway for lower-income essential workers, designed to meet critical shortages. Most likely Industry Labour Agreements
 - Employee has 180 days to change employer
 - Employee will have pathway to PR after 2 years even if they change employer

What is changing cont...

- Permanent residence pathways - employee mobility
 - Easier Transition (but what about the delays??)
 - More independent pathways
- Student numbers to be reduced
- Increased compliance
 - Worker rights
 - More money
 - Closer scrutiny of applications in the high risk groups
- Plenty of acronyms:
 - OSCA Occupation Standard Classification for Australia - the new ANZSCO 6 December 2024
 - SIDV Skills in Demand Visa – replacing the current TSS
 - SSP Specialist Skills Pathway of the SIDV
 - CSP Core Skills Pathway of the SIDV
 - ESP Essential Skills Pathway of the SIDV
 - CSIT Core Skills Income Threshold
 - SSIT Specialist Skills Income Threshold
 - CSOL Core Skills Occupation List - a single consolidated list to determine eligibility for the new SIDV
 - OSL Occupation Shortage List Already available

What is still unknown

- Exactly when this will happen
- Exactly how it will be done and the extent of the disruption to processing
- Transitional rules - what happens to TSS visa holders - do they get a new visa and in which stream?
- What does the proposed cap of 3000 places for the Specialist Skilled Pathway mean?
 - Are we headed for a US-style H1B type process (ballot system)
 - Use of processing to achieve the target
- The occupation lists & what will happen with state-specific shortages (for example Construction Project Manager - Victoria)
- What occupations might be covered by international agreements
 - For example the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) allows for the temporary entry of business professionals between member countries, including Australia. This agreement facilitates the mobility of professionals, technicians, and other skilled workers in specified roles across the eleven CPTPP countries. These roles include:
 - **Intra-corporate transferees:** Employees of multinational companies transferring to branches or subsidiaries in another CPTPP country.
 - **Contractual service suppliers:** Professionals with a contract to provide services in a specific sector, such as engineering, legal services, or accounting.
 - **Independent executives:** Senior-level executives or managers relocating for business purposes.
 - **Installers and servicers of machinery and equipment:** Specialised technicians entering a CPTPP country to install or maintain equipment.

Most likely impacts

Little or Positive Impact Likely	Some Impact Likely	Significant Impact Likely
Positions over \$135,000 Fast processing	Positions \$73,150 - \$135,000 Increased scrutiny and delays	Industries heavily reliant on non-sponsored overseas workers - such as students Workers close to \$73,150
<ul style="list-style-type: none"> • Technology and Digital Innovation • Green Energy and Renewable Resources • Advanced Manufacturing & Agriculture • Construction and Infrastructure • Recruitment • Healthcare and Aged Care • Retail <ul style="list-style-type: none"> ◦ Supervisor & Sales Associates (NSW) 	<ul style="list-style-type: none"> • ICT <ul style="list-style-type: none"> ◦ Subject to new OSCA classification • 	<ul style="list-style-type: none"> • Financial Sector (except FinTech) <ul style="list-style-type: none"> ◦ Dealers/Traders ◦ Accountants ◦ Information professionals • Marketing • Consulting firms • Hospitality -Restaurant Manager • Tourism - Accommodation Manager
Those in industries or companies with Labour Agreements		Those in industries or companies without Labour Agreements or those needing variations
	Regional businesses if the Skills in Demand visa is available at state level for shortages	Regional Businesses except where DAMA

The 60 million dollar question - the occupation list

The Commonwealth Government, through the Department of Home Affairs (or soon to be the Department of Immigration again), will ultimately be responsible for determining which occupations are listed on the new Consolidated Skilled Occupation List (CSOL).

This is done in consultation with various stakeholders, including:

- **Skills Assessment Authorities:** These bodies evaluate the skills of applicants to ensure they meet the Australian standards for specific occupations.
- **Job Skills Australia:** The JSA provides data and analysis on Australia's labor market and skills needs.
- **Industry Consultation:** Feedback from key industry bodies, trade associations, and employer groups.
- **State and Territory Governments:** These governments may also provide input, especially when certain occupations are critical to regional or state-specific development goals.

Occupation Shortage List

THIS IS NOT THE FINAL CSOL LIST

Representations to JSA can be made at OccupationShortageList@jobsandskills.gov.au

Business risks & considerations & what you should be doing

List changes	Salaries under 135k	<ul style="list-style-type: none"> • Review critical employees for possible early renewal or permanent residence application before changes • Consider your communications to employees who will be nervous • Seek Labour Agreement variations to ensure positions in place for coming years • Make representations to the JSA (for next year July list)
Worker mobility	All	<ul style="list-style-type: none"> • Review extent to which retention depends on visa • Review costs & who pays for what • Recovery provisions in contracts (are they legal & will they work)
Compliance	All	<ul style="list-style-type: none"> • Review internal approval processes - seeing more clients changing occupations to fit the list • Monitoring work rights in more complex situations such as the 180-day exemption for TSS visa holders to change employer <ul style="list-style-type: none"> ◦ How to monitor the date, work rights while applying

What we are doing

- Monitoring all announcements - we will send Alerts and schedule another webinar
- Reviewing all reports, recommendations and legislation
- Analysing the impacts for particular industries or clients & working with them to get ready
- Reviewing our knowledge base to ensure we are ready for the change
- Building a plan to ensure MobilityDesk is ready for the new processes and forms as soon as possible after the changes are released

Questions & Discussion

AJURIA

LAWYERS

Email ron@ajurialawyers.com
lillian@ajurialawyers.com

Website www.ajurialawyers.com

Phone 02 9222 6100